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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,574	04/15/2004	Kurt Brooks Uhlir	N0189US	8870
37583	7590	12/14/2006		EXAMINER
				HU, KANG
			ART UNIT	PAPER NUMBER
			3709	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/825,574	UHLIR ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kang Hu	3709	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/21/04; 7/11/05.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

Page 3, line 4 and 9: "Figure 5 a" and "Figure 7 a" should be -- Figure 5 is a --  
and --Figure 7 is a --.

Page 3, line 23: "may be different cities" should be -- may be in different cities --.

Page 4, line 9 and 10: the acronyms "PCS, GPRS, EDGE or WIFI" and "PDA"  
should be spelled out in the specification such as -- PCS, Personal  
Communication Services; GPRS, General Pocket Radio Services; EDGE,  
Enhanced Data for GSM Evolution -- etc. to make the disclosure clear and easily  
understood.

Appropriate correction is required.

### ***Claim Objections***

2. Claims 3, 7, 13 and 20 are objected to because of the following informalities:

Claim 3, line 2: "along the course" should be --along the first course --.

Claim 7 and 13, line 2: the acronyms "GPS" and "DGPS" should be -- GPS,  
Global Positioning System -- and -- DGPS, Differential Global Positioning  
System --.

Claim 20, line 3: "first performance the second performance" should be -- first  
performance to the second performance --.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 20 -23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 20, line 2 and 3: “machine connected directly to a program” is ambiguous as to how the machine is connected to the program.

Re claim 21, line 6 “equivalency program that received the output” is ambiguous as to how the equivalency program is able to receive the output from the monitoring means.

Claims 22-23 are considered to be indefinite because they are dependent upon claim 21.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3709

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 4-9, 15, 16, 18, 19, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Fry (US 6,463,385).

Re claim 1: Fry discloses a method for facilitating performance by a participant in an event that includes movement along a course (see abstract; col 7, line 57), the method comprising: monitoring a first performance by a first participant in a first event (col 1, lines 23-29); accessing a geographic database (abstract; col 2, lines 17-42; col 5, lines 18-26) that includes data that represents features in a first geographic area; using the geographic database to match the first performance to a first course located in the first geographic area; comparing the first performance of the first participant to a second performance; and providing an indication of the comparing to the first participant (abstract; col 1, lines 50-65).

Fry further discloses

Re claim 2: the event is one selected from a group consisting of: running, bicycling, a road rally, a triathlon, a soap box derby, a dog sled race, cross-country skiing, sledding, a roller blade race, race walking, rowing, a steeplechase street luge, adventure racing, snow boarding, rock climbing, and extreme runs (col 2, lines 45-58).

Art Unit: 3709

Re claim 4: the first participant physically moves along the first course (col 2, lines 45-58).

Re claim 5: determining positions of the first participant during the first performance (col 2, lines 45-67; col 3, lines 1-30).

Re claim 6: the positions of the first participant are determined using a first positioning device (col 2, lines 45-67; col 3, lines 1-30).

Re claim 7: the first positioning device is selected from a group consisting of: a GPS unit, a DGPS unit, cell phone positioning technology that uses triangulation, cell phone positioning technology that uses time-of-arrival, cell phone positioning technology that uses direction-of arrival, and beacons (col 2, lines 45-67; col 3, lines 1-30; col 8, lines 42-50).

Re claim 8: the positions of the first participant are transmitted as data wirelessly from a first communications device located with the first participant (col 7, lines 45-55).

Re claim 9: the second performance is by a second participant (col 7, lines 55-67; col 8, lines 1-5).

Re claim 15: the second performance is along the first course, but occurred at a previous time (col 7, lines 55-65).

Re claim 16: the second performance is by the first participant along the first course, but occurred at a previous time (col 7, lines 55-65).

Re claim 18: the indication is provided to the first participant during the event (col 1, lines 50-65; col 7, lines 55-60).

Re claim 19: the indication is provided to the first participant during the event via a wireless communications device (col 7, lines 50-55).

Re claim 21: Fry discloses a system comprising a monitoring means that monitors a first user's performance in an event that involves movement along a first course (see abstract; col 7, line 57) and provides an output indicative thereof; a geographic database (abstract; col 2, lines 17-42; col 5, lines 18-26) that includes data that represents features in a first geographic area that includes the first course; and a competition comparison and equivalency program that receives the output from the monitoring means and provides the first user with an indication that compares the first user's performance to a second performance (abstract; col 1, lines 50-65).

Re claim 23: Fry further discloses the first user's performance is monitored by a positioning unit that determines positions of the first user in the first geographic area while the first user is moving along the first course in the first geographic area (abstract; col 2, lines 45-50).

*Claim rejections - 35 U.S.C 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 10-14, 17, 20 and 22 are rejected under 35 U.S.C. 103(e) as being unpatentable over Fry in view of Khosla (US 6,080,063). The teachings of Fry have been discussed above.

Re claim 3: However Fry did not teach that the first participant is stationary relative to the first course and the movement along the course is simulated.

Fry further did not teach:

Re claim 10: the second performance is along a second course located in a second geographic area, which is different from the first geographic area.

Re claim 11: determining positions of the second participant during the second performance.

Re claim 12: the positions of the second participant are determined using a second positioning device.

Art Unit: 3709

Re claim 13: the second positioning device is selected from a group consisting of: a GPS unit, a DGPS unit, cell phone positioning technology that uses triangulation, cell phone positioning technology that uses time-of-arrival, cell phone positioning technology that uses direction-of arrival, and beacons.

Re claim 14: the positions of the second participant are transmitted as data wirelessly from a second communications device located with the second participant.

Re claim 17: the second performance is along a second course located in a second geographic area, which is different from the first geographic area, and further wherein the second performance is by the first participant, but occurred at a previous time.

Re claim 20: the first participant is stationary relative to the first course and the movement along the course is simulated by a machine connected directly to a program that compares the first performance the second performance and provides the indication to the first participant.

Re claim 22: the first user's performance is monitored by a stationary machine that simulates movement along the first course.

Khosla teaches the following:

Re claim 3: the first participant is stationary relative to the first course and the movement along the course is simulated (abstract; col 2, lines 27-37).

Re claim 10: the second performance is along a second course located in a second geographic area, which is different from the first geographic area (col 2, lines 27-37; col 6, lines 12-33).

Re claim 11: determining positions of the second participant during the second performance (col 3, lines 59-67; col 4, lines 1-22).

Re claim 12: the positions of the second participant are determined using a second positioning device (col 3, lines 59-67; col 4, lines 1-22).

Re claim 13: the second positioning device is selected from a group consisting of: a GPS unit, a DGPS unit, cell phone positioning technology that uses triangulation, cell phone positioning technology that uses time-of-arrival, cell phone positioning technology that uses direction-of arrival, and beacons (col 3, lines 59-67; col 4, lines 1-22).

Re claim 14: the positions of the second participant are transmitted as data wirelessly from a second communications device located with the second participant (col 3, lines 59-67; col 4, lines 1-22; fig 2).

Re claim 17: the second performance is along a second course located in a second geographic area, which is different from the first geographic area, and further wherein the

second performance is by the first participant, but occurred at a previous time (col 6, lines 50-67; col 7, lines 1-3, lines 25-37).

Re claim 20: the first participant is stationary relative to the first course and the movement along the course is simulated by a machine connected directly to a program that compares the first performance the second performance and provides the indication to the first participant (col 7, lines 47-65; col 8, lines 30-38).

Re claim 22: the first user's performance is monitored by a stationary machine that simulates movement along the first course (abstract).

Therefore in view of Khosla, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a simulated machine to interact with real live events in a different geographical location by different participants to make it more enjoyable, more convenient, and more practical.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smithson teaches a system for simulating bicycle riding which incorporates a conventionally appearing bicycle physically maneuverable by a system user. Lee teaches a personal training device using GPS to assist a user in reaching performance goals, navigating, and accumulating performance statistics. Meadows

Art Unit: 3709

teaches a personal golfing assistant and method for graphically displaying golf related information and for collection, processing and distribution of golf related data. Vock teaches a method and system for assessing athletic performance with sensors to detect loft time, speed, power and drop distance of a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kang Hu whose telephone number is (571)270-1344. The examiner can normally be reached on 7:30 - 5(M-F) (Off every other friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk(James) Lee can be reached on 571-272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

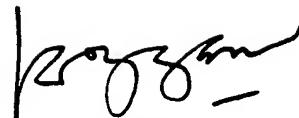
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Art Unit: 3709

/KH/

Kang Hu

Dec 7, 2006



**KIM NGUYEN**  
**PRIMARY EXAMINER**